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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,265	08/23/2006	Masaki Nakakado	YMMRP0109US	2067

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EXAMINER
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CAILLOUET, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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09/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,265	<b>Applicant(s)</b> NAKAKADO ET AL.	
	<b>Examiner</b> CHRISTOPHER C. CAILLOUET	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/23/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hayden et al. (US 5407513).

Hayden et al. (Hayden) discloses an apparatus for accelerating and decelerating a strip of material (Abstract). Hayden discloses that the device comprises of drum (20) for transporting a continuous web (28); a movable member (18) disposed upstream of the drum for feeding the continuous web to the drum, said member capable of moving to various positions according to the change of the velocity of the web; and a cutter (22) for cutting the web (28) on the drum (20) (Fig. 1; column 3, line 58- column 4 line 14).

Method limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of Hayden et al. would be capable of changing the circumferential velocity of the drum periodically at least once per one rotation of the drum; the movable member would be capable of moving according to the change in the circumferential velocity of the drum; and the apparatus would be capable of transporting the continuous web at a velocity equal to that of the circumferential velocity of the drum.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayden et al. (US 5407513) as applied to claim 1 above, and further in view of McCabe (US 6596108).

As to claims 2 and 3, Hayden fails to disclose whether a process device in the form of a welder may be included for processing the web (28) on the drum (20). It is the position of the Examiner that including a processing device, such as a welder, to work on a web of material as it passes on a transport drum is well known in the art of diaper making and would have been obvious to one of ordinary skill at the time of the invention. McCabe discloses a velocity changing apparatus for processing webs of material, such as webs for making diapers (Abstract) wherein ultrasonic welders (14) work on a web of material (12) as it passes over a transport drum (18) (Fig. 2; column 3, lines 64 – column 4, line 15). McCabe discloses that the welder is used to bond multiple layers of material together (Id.). It would have been obvious for one of ordinary skill at the time of the invention to include an ultrasonic welder for bonding layers of material together, such as the welder of McCabe, in the device of Hayden because such a modification would have been within his technical grasp.

As to claim 4, the apparatus of claim 3 is taught as seen above. Method limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of the above references as combined would be capable of lowering the speed of the web so that the processing device could apply an ultrasonic weld to the web.

As to claim 5, the apparatus of claim 4 is taught as seen above. Method limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of the above references as combined would be capable of lowering the speed of the web so that the cutter (22) may cut the web (12).

As to claim 6, the apparatus of claim 5 is taught as seen above. Hayden discloses that the discrete pieces cut from the web are received by a receiving device (36) (Fig. 1). Method limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of the above references as combined would be capable of operating when the velocity of the receiving device (36) is greater than the velocity of the continuous web (28).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER C. CAILLOUET whose telephone number is (571)270-3968. The examiner can normally be reached on Monday - Thursday; 9:30am-4:00pm, EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Phillip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher C Caillouet/  
Examiner, Art Unit 1791

/Mark A Osele/  
Primary Examiner, Art Unit 1791  
September 11, 2009